

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 978 of 2019

- Dr. Pramod Tiwari, S/o Late Banshraj Tiwari, Aged About 65 Years Retd. District Medical Officer, Balodabazar, District-Balodabazar, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station City Kotwali, Balodabazar, District- Balodababazar, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. T. K. Jha, Advocate.
For Respondent	:	Mr. Devendra Pratap Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

29/08/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending her arrest in connection with Crime No.317/2019 registered at Police Station- City Kotwali, Baloda-Bazar, District – Baloda Bazar(C.G.), for the offence punishable under Sections 304, 34 of the Indian Penal Code (for short 'IPC') and Section 15(2)(B) of Indian Medical Council Act and Section 12 of Chhattisgarh State Upcharyagrah and Rogopachar Sthapanaye Anugyapan Adhiniyam, 2010.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. This applicant has not committed any offence. Applicant is a qualifying doctor and Surgeon and he has performed the operation on the deceased in good faith. All the safety and precautionary measures were taken during the

operation of the deceased. However, the deceased did not take-care of the instructions and medication because of which this applicant cannot be held responsible, hence, it is prayed that he may be granted anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that this applicant has performed the operation not in the hospital or any recognize clinic, but in the house of staff nurse, therefore, this is a clear act of inadvertence, which has resulted in the death of deceased, hence, he is not entitled for grant of anticipatory bail.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, co-accused Digeshwari is a nurse, who runs a clinic in her own house, which does not have any recognition. It is alleged that a tubectomy operation was conducted by this applicant in that clinic on deceased Purnima and, thereafter, she was discharged. After 3 days of this operation, deceased has expired. The postmortem report mentions the cause of death has Septicemia that is severe inspection. Hence, this case.
6. The applicant may be taken to chance from the administrative side from performing operation in an unrecognized clinic. The cause of death of the deceased appears to be some lack in the post operative care, therefore, looking to this circumstances, I am of this view that applicant should be benefited with grant of anticipatory bail.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of

Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge